

# **The Gazette of India**



**EXTRAORDINARY**

**PART II—Section 3—Sub-section (ii)**

**PUBLISHED BY AUTHORITY**

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**No. 125] NEW DELHI, FRIDAY, JULY 4, 1958/ASADHA 13, 1880**

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## **ELECTION COMMISSION, INDIA**

### **NOTIFICATIONS**

*New Delhi, the 26th June 1958*

**S.O. 1321.**—Whereas the elections of Shri Bishan Chand seth as a member of the House of the People from the Shahjhanpur constituency has been called in question by an election petition duly presented under Part VI of the Representation of the People Act, 1951 (43 of 1951) by Shri Darbari Lal Sharma, House No. 128 Muzaffarganj, Shahjhanpur;

And whereas the Election Tribunal constituted by the Election Commission by its notification No. 82/472/57/4521, dated the 8th July, 1957 with Shri H. P. Varshni the then District and Sessions Judge, Shahjhanpur for the trial of the said petition, dismissed the petition by its order dated the 3rd April, 1958;

And whereas, the High Court of Judicature at Allahabad on an appeal of the said petitioner has set aside the said order of the Election Tribunal by its order dated the 18th November, 1957 and has sent a copy of that order to the Commission for further proceedings in accordance with law;

And whereas by the transfer of the said Shri H. P. Varshni a vacancy has occurred in the office of the member of the said Tribunal;

Now, therefore, in exercise of the powers conferred by section 86 of the said Act, the Election Commission hereby appoints Shri Syed Khadim Ali District and Sessions Judge, Shahjhanpur as the Member of the Tribunal for the further trial of the said petition.

[No. 82/472/57/8590.]

**S.O. 1322.**—In continuation of the Election Commission's notification No. 82/472/57/7259, dated the 6th December, 1957, published in the Gazette of India Extraordinary dated the 13th December, 1957 the Election Commission hereby publishes the judgment of High Court of Judicature at Allahabad delivered on the 3rd April, 1958, on an appeal filed before that Court by Shri Darbari Lal Sharma.

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD  
CIVIL SIDE

## ORIGINAL JURISDICTION

Allahabad, the 3rd April, 1958

## PRESENT

The Hon. V. Bhargava.....Judge.

AND

The Hon. M. L. Chaturvedi.....Judge

CIVIL MISC. WRIT No. 3377 OF 1957

Order on the application of Darbari Lal Sharma son of Bhup Ram, r/o Moh. Jagatpur,  
Old City, Bareilly, applicant in re:

Darbari Lal—*Applicant*.*Vs.*Shri H. P. Varshney and others—*Opp. parties*.*By the Court:*

We have heard learned counsel for the parties on this petition under Article 226 of the Constitution by which the petitioner seeks the vacation of an order of the Election Tribunal, Shahjhanpur dismissing the election petition filed by the petitioner *in limine* under section 90 sub section (3) of the Representation of the People Act on the ground of non-compliance with the provisions of section 117 of the Representation of the People Act. The point decided by the Tribunal in respect of non compliance with section 117 of the Representation of the People Act is identical with the point that was found against the petitioner who subsequently moved this Court in Writ petition No. 2603 of 1957 (Bhuvanesh Bhushan Sharma *vs.* Hakim Haziq & others) decided by us on 16th January, 1958. The facts of the present case are identical with those of that case and our decision in that case is fully applicable to the present case. For the reasons given by us in our judgment of that case we hold that the order of the Tribunal is incorrect and must be set aside. The petition is therefore allowed and the order of the Tribunal dismissing the petition *in limine* is quashed. The result is that the petition will now be deemed to be pending before the Tribunal and will go back to the Tribunal which will now proceed in accordance with the law. In the circumstances of this case, we make no order as to costs

*Dated the 3rd April 1958*

(Sd.) V. B.

, (Sd.) M. L. C.

[No. 82/472/57/8591.]

By Order,

A. N. SEN, Under Secy.